

CITY OF MILPITAS
Summary of Contents
Milpitas City Council Meeting
April 20, 2004
6:00 p.m. Closed Session
7:00 p.m. Public Business
455 E. Calaveras Boulevard

I. ROLL CALL (6:00 p.m.)

II. ADJOURN TO CLOSED SESSION

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Pursuant to Government Code Section 54956.8)

Property: APN #022-08-042

Negotiating Parties: City of Milpitas and County of Santa Clara

Agency Negotiator: Thomas J. Wilson

Under Negotiation: Terms and Conditions for Disposition or Lease

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Pursuant to Government Code Section 54956.8)

Property: APN #86-12-015, 86-12-016, and 86-12-020

Negotiating Parties: Milpitas Redevelopment Agency/City and Abel Trust

Agency Negotiator: Thomas J. Wilson

Under Negotiation: Terms and Conditions for Acquisition of Property

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Pursuant to Government Code Section 54956.8)

Property: Vacant Property N. Main Street (APN No. 2208003)

Negotiating Parties: City of Milpitas/Milpitas Redevelopment Agency and Kathleen Cardoza

Agency Negotiators: Thomas J. Wilson and Blair King

Under Negotiation: Terms and conditions for acquisition of property

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Pursuant to Government Code Section 54956.8)

Property: Winsor and Rodriquez properties (adjacent to Main St. off ramp of Calaveras Blvd.) (APN Nos. 2824014, 2824020, 2824026 and 2824025)

Negotiating Parties: City of Milpitas/Milpitas Redevelopment Agency and Winsor, Rodriquez, Garbe's Towing and Economy Towing.

Agency Negotiators: Thomas J. Wilson/Greg Armendariz

Under Negotiation: Terms and conditions for acquisition of property and rental interests

III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote on abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)

V. APPROVAL OF MINUTES: April 6, 2004

VI. SCHEDULE OF MEETINGS

VII. PRESENTATIONS

Commendations:

- Cast members of the Rainbow Theatre production of *Chicago*:

Coel Agustin	Jackie Holland	Keith Menconi
Casey Atud	Holly Howe	Jennifer Nguyen
Charlotte Beard	Sarah Hudson	Jamie Parreno
Samantha Beard	Deana Jensen	Kirstin Plato
Laura Castaneda	Macaela Jensen	Ryan Robinson
Zarina Dhami	Htoi Lahpai	Kristin Schmitz
Sarah Erbele	Robbie Lin	Peonie Seesurat
Johnson Eung	Bianca Martinez	Celeste Thompson
Conrad Gabriel	Danae Matthews	Lenine Umali
Julian Hilario, Jr.	Nicole Matthews	Anne Villaruz
Yvonne Hoang		

Proclamations:

- Volunteer Week, April 18-24, 2004 – recognizing City of Milpitas Volunteers
- Volunteer Month, April 2004 – recognizing Volunteer Center of Silicon Valley
- Alcohol Awareness Month, April 2004 – recognizing National Council on Alcoholism and Drug Dependence in the Silicon Valley

VIII. CITIZENS FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to under two minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

IX. ANNOUNCEMENTS

X. APPROVAL OF AGENDA

XI. CONSENT CALENDAR (Items with Asterisks)

XII. PUBLIC HEARINGS

1. **Approve Entertainment Event Permit for a Carnival Sponsored by the Milpitas Rotary Club: Wal-Mart/McCarthy Ranch Property: May 13-16, 2004 (Staff Contact: Gail Blalock, 586-3001)**
2. **Approve the Community Development Block Grant Funding for FY 2004-05 and Adopt the One-year Action Plan (Staff Contact: Felix Reliford, 586-3071 and Gloria Anaya, 586-3075)**
3. **Adopt Sixth Amendment to the County of Santa Clara Countywide Nondisposal Facility Element (Staff Contact Darryl Wong, 586-3345)**

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. CALL TO ORDER BY THE MAYOR

RA2. ROLL CALL

RA3. APPROVAL OF MINUTES: April 6, 2004

RA4. APPROVAL OF AGENDA

**RA5. REVIEW DRAFT 2004-2009 CAPITAL IMPROVEMENT PROGRAM (CIP) REPORT
(STAFF CONTACT: MIKE MCNEELY, 586-3301 AND GREG ARMENDARIZ, 586-3320)**

RA6. AGENCY ADJOURNMENT

XIV. REPORTS OF OFFICERS AND BOARDS

City Council

- * 4. Approve the Mayor's Appointments and Reappointments to the Economic Development Commission: Mayor Esteves**

Parks, Recreation, and Cultural Resources Commission

- * 5. Approve the 2004 Parks, Recreation and Cultural Resources Commission Work Plan (Staff Contact: Bonnie Greiner, 586-3227)**

XV. UNFINISHED BUSINESS

- 6. Review Odor Control Comprehensive Action Plan Update (Staff Contact: Darryl Wong, 586-3345)**
- * 7. Approve Production and Distribution of Community Newsletter and Associated Costs (Staff Contact: Cindy Maxwell, 586-3282 and Thomas Wilson, 586-3050)**

XVI. NEW BUSINESS

- 8. Consideration of Street Sweeping as a Solid Waste Service (Staff Contact: Blair King, 586-3060)**
- * 9. Approve Marquee Request: Annell Spencer, Representing Friends of the Library (Staff Contact: Jennifer Tagalog, 586-3206)**

XVII. ORDINANCES

- * 10. Adopt Ordinance No. 38.763 (ZT2004-1) Amending Title XI, Chapter 10 (Planning, Zoning and Annexation) of the Municipal Code (Staff Contact: Staci Pereira, 586-3278)**
- * 11. Adopt Traffic Ordinance 43.200: Amendment To The Traffic Code: (Staff Contact: Mike McNeely, 586-3301)**

XVIII. RESOLUTIONS

- * 12. Adopt Resolution Approving Extension of Comcast Franchise (Staff Contact: Bill Marion, 586-2701)**
- * 13. Adopt Resolution Granting Final Acceptance: Calaveras Road Slope Repair, (Project No. 4029) (Staff Contact: Greg Armendariz, 586-3320)**

XIX. BIDS AND CONTRACTS

- * 14. **Authorize the City Manager to Execute Revocable Permit With San Francisco Public Utilities Commission (Project No. 6082) (Staff Contact: Darryl Wong, 586-3345)**
- * 15. **Approve Lease Agreement with GTE Mobilenet of California (Staff Contact: Bill Marion, 586-2701)**
- * 16. **Approve Joint Powers Agreement between City Of Milpitas Recreation Services and City of Fremont - Tennis Center (Staff Contact: Rosana Cacao, 586-3207)**
- * 17. **Award Construction Contract: Street Trees And Mulch For Great Mall Parkway (Project No. 4133) (Staff Contact: Doug Devries, 586-3313)**
- * 18. **Authorize the City Manager to Execute an Agreement Amendment: Korve Engineering, Great Mall Parkway and Tasman/I880 Vehicle Capacity Improvements (Project No. 4178) (Staff Contact: Steve Erickson, 586-3317)**
- * 19. **Authorize the City Manager to Execute the Agreement: Lowney Associates, Great Mall Parkway and Tasman/I880 Vehicle Capacity Improvements, (Project No. 4178) (Staff Contact: Steve Erickson, 586-3317)**
- * 20. **Authorize the City Manager to Execute the Agreement Amendment: Korve Engineering, Right Turn Lane at Abel/Calaveras (Project No. 4186) (Staff Contact: Steve Erickson, 586-3317)**
- * 21. **Approve Agreement Amendment: Singley Area Street Rehabilitation - Phase III (Project No. 4200) (Staff Contact: Doug DeVries, 586-3313)**
- * 22. **Amend Master Services Agreement with Granicus, Inc. to Extend the Agreement through June 30, 2007, and Increase the Contract Amount by \$26,000 for Additional Video Streaming Equipment and Maintenance Charges (Project No. 8142), (Staff Contact: Terry Medina, 586-2703)**

XX. CLAIMS AND DEMANDS

- * 23. **Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Lou Zenzen, 586-3161)**

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MAY 4, 2004, AT 7:00 P.M.**

**CITY OF MILPITAS
Agenda Reports
Milpitas City Council Meeting
April 20, 2004
6:00 p.m. Closed Session
7:00 p.m. Public Business
455 E. Calaveras Boulevard**

XII. PUBLIC HEARINGS

1. APPROVE ENTERTAINMENT EVENT PERMIT FOR A CARNIVAL SPONSORED BY THE MILPITAS ROTARY CLUB: WALMART/MCCARTHY RANCH PROPERTY: MAY 13-16, 2004 (STAFF CONTACT: GAIL BLALOCK, 586-3001)

BACKGROUND: The Milpitas Rotary Club has submitted an application for an Entertainment Event Permit to hold a Butler Amusement Carnival in the Wal-Mart parking lot at McCarthy Ranch, 301 Ranch Drive, on May 13-16, 2004. The Carnival would operate Thursday and Friday, May 13 and 14, from 3:00 p.m. until 11:00 p.m. and Saturday and Sunday, May 15 and 16, from 11:00 a.m. until 11:00 p.m.

The Rotary Club is also requesting waiver of any City fees for Fire standby personnel. The Fire Marshal has determined that based upon experience with past events and the additional security personnel and measures provided by the Rotary Club, the need for Fire Watch personnel is not necessary.

The application has been reviewed and approved, subject to conditions, by the various City departments and the public hearing has been advertised as required by City Ordinance. A copy of the application is included in the Council's agenda packets.

RECOMMENDATION:

1. Close the public hearing.
2. Approve the Entertainment Event Permit for the Milpitas Rotary Club for a Carnival on May 13-16, 2004, at the Wal-Mart parking lot at McCarthy Ranch, subject to the special conditions noted.

2. APPROVE THE COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR FY 2004-05 AND ADOPT THE ONE-YEAR ACTION PLAN (STAFF CONTACT: FELIX RELIFORD, 586-3071 AND GLORIA ANAYA, 586-3075)

BACKGROUND: The purpose of this public hearing is to establish funding levels and uses of the Community Development Block Grant (CDBG) Program for fiscal year 2004-05 and to adopt the One-year Action Plan, which describes the eligible programs, projects and activities to be undertaken with CDBG funds in the next fiscal year. An application workbook was previously distributed to the Council that contains a memorandum discussing the general guidelines regarding the use of CDBG funds and a copy of each eligible application received.

CDBG Program

The City's estimated grant for FY 2004-05 is approximately \$711,000. Twenty-two (22) applications were received for CDBG funding. There are 19 applications requesting funding for Public Services and a total of \$106,650 is available for this funding category. A total of \$462,150 is available to fund Non-public Services.

At its meeting on March 3, 2004, the Community Advisory Commission (CAC) held a public hearing and reviewed the CDBG applications. The CAC has recommended \$711,000 in total funding, including \$121,650 (\$15,000 from CDBG General Program Administration funds for Project Sentinel's Fair Housing Activities) for Public Services and \$462,150 for Non-Public Services. The remaining \$127,200 of the grant is committed for program administration.

Included in the Council's agenda packets are the March 3, 2004, CAC minutes with the CAC's funding recommendations. All applicants have been notified of the City Council public hearing and have been advised to be present to answer any questions the Council might have.

Action Plan

The City of Milpitas One-Year Action Plan describes the eligible programs, projects and activities to be undertaken with the funds expected to be available during the 2004-05 program year and their relationship to the priority needs housing, homeless, and community development. The Action Plan is an addition to the required Five-year Consolidated Plan previously approved by the Department of Housing and Urban Development (HUD) for continued funding as an entitlement city.

In summary, the Action Plan identifies the federal, state and local resources that will be used to fund local programs and services, the strategic plan for implementation and the citizen participation process. As required by HUD, the Action Plan has been advertised for public review and comments for 30 days (March 5 through April 5, 2004).

Copies of the Action Plan were sent to 22 public service providers and copies were placed at City Hall and the public library. Public comments received have been incorporated into the Action Plan and to be forwarded to HUD by May 15, 2004. A draft of the One-Year Action Plan is included in the Council's agenda packet.

RECOMMENDATION:

1. Close the public hearing on the CDBG funding process and the Action Plan.
2. Approve the CAC recommendations for FY 2004-05 CDBG funding, as submitted.
3. Adopt the One-year Action Plan.

3. ADOPT SIXTH AMENDMENT TO THE COUNTY OF SANTA CLARA COUNTYWIDE NONDISPOSAL FACILITY ELEMENT (STAFF CONTACT DARRYL WONG, 586-3345)

BACKGROUND: This public hearing is required for Council approval of a Nondisposal Facility Element (NDFE) amendment to identify a recycling facility located in Milpitas. The original Santa Clara NDFE was adopted by the County of Santa Clara, and 13 cities and towns in the County including Milpitas, through Resolution 5387, in 1994. A memorandum detailing the amendment is included in the Council's packet. The County Recycling and Waste Reduction Commission of Santa Clara, of which Milpitas is a member has stated that the amendment will positively impact the region.

Environmental Management Systems at 945 Ames Avenue, Milpitas collects and sorts material from construction sites for reuse. The facility is required to apply and receive a State Solid Waste Facility permit in order to continue to operate. State law requires that any jurisdiction that will be the site of a new nondisposal facility, such as Environmental Management Systems, first adopt an NDFE amendment identifying the facility as part of the NDFE in order for a State Solid Waste Facility Permit to be issued for that site. A public hearing is required by the California Code of Regulations to receive testimony on any proposed NDFE amendment.

RECOMMENDATION:

1. Close the public hearing.
2. Adopt resolution approving the sixth amendment to the County of Santa Clara countywide nondisposal facility element.

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. CALL TO ORDER BY THE MAYOR

RA2. ROLL CALL

RA3. APPROVAL OF MINUTES: April 6, 2004

RA4. APPROVAL OF AGENDA

RA5. REVIEW DRAFT 2004-2009 CAPITAL IMPROVEMENT PROGRAM (CIP) REPORT (STAFF CONTACT: MIKE MCNEELY, 586-3301 AND GREG ARMENDARIZ, 586-3320)

BACKGROUND: Staff will present the draft CIP. Based upon the direction received, a final preliminary CIP will then be presented to Council at the May 11, 2004, budget session.

The projects are arranged into six main categories: Community Improvements, Parks, Streets, Water, Sewer, and Storm Drain. The document includes a summary by categories and individual proposed project descriptions.

Only projects in the first year (2004-05) of the five-year CIP will be proposed for funding in the upcoming budget. The projected fiscal year 2004-05 expenditure for these projects, which consist mostly of projects begun in prior years, is \$16 million. The projects listed in subsequent years are shown for planning purposes and do not receive expenditure authority until approved by Council at a later time.

On March 30, the CIP Subcommittee reviewed a summary of the Program. On April 5, the Parks, Recreation, and Cultural Arts Commission reviewed the Parks projects. On April 14, the Planning Commission found the document to be in conformance with the General Plan.

RECOMMENDATION: Provide staff with direction and comments on the 2004-2009 Capital Improvement Program.

RA6. AGENCY ADJOURNMENT

XIV. REPORTS OF OFFICERS AND BOARDS

City Council

*** 4. APPROVE THE MAYOR'S APPOINTMENTS AND REAPPOINTMENTS TO THE ECONOMIC DEVELOPMENT COMMISSION: MAYOR ESTEVES**

BACKGROUND: For the Economic Development Commission, Mayor Esteves is recommending moving Christie Gammon from the Alternate 1 position to a regular position created by Joe Gigantino not seeking reappointment, moving Tomo Nguyen from the Alternate 2 position to Alternate 1, appointing Charlene Tsao to the Alternate 2 position, and reappointing Diane McDonough and Dr. Karl Black to new three-year terms. Copies of all current applications for this Commission are included in the Council's agenda packets.

RECOMMENDATION: Approve the Mayor's appointment of Christie Gammon to fill the vacancy created by Joe Gigantino for a term expiring April 2007; moving Tomo Tuong Nguyen from Alternate 2 to Alternate 1 for a term expiring April 2005; appointing Charlene Tsao to the Alternate 2 position for a term expiring April 2006; and reappointing Diane McDonough and Dr. Karl Black to new three-year terms expiring April 2007.

Parks, Recreation, and Cultural Resources Commission

*** 5. APPROVE THE 2004 PARKS, RECREATION AND CULTURAL RESOURCES COMMISSION WORK PLAN (STAFF CONTACT: BONNIE GREINER, 586-3227)**

BACKGROUND: Pursuant to the Parks, Recreation and Cultural Resources Commission (PRCRC) Bylaws, the Parks, Recreation and Cultural Resources Commission serves as an advisory body to the City Council on matters regarding the operation and maintenance of recreation, leisure services, historic preservation activities and the acquisition, planning and development of new and existing parks and facilities. The PRCRC Commission has developed an annual work plan to focus on projects and programs that benefit the community. For the current year, the PRCRC Commission held working sessions during their February and March meetings to develop the 2004 Work Plan, as shown below:

Short-term Goals

1. Art in your Park – work with the Arts Commission and the Milpitas Alliance for the Arts on implementation, creating checklist for proper neighborhood/community notification, input, meetings.
2. Joint meeting with BTAC – discuss Park Metro park plans, pedestrian over cross.
3. Create sub-committee: DeVries Property
4. Create Parks and Facility Master Plan

Long-term Goals

1. Parks and Trails
2. Implementation and Completion of Parks Master Plan
3. Explore methods of financing for Park Maintenance and Redevelopment.

Ongoing Tasks

1. Youth Sports Grant Fund Requests (as applied)
2. Child Care Grant Fund Requests (as applied)
3. City Park Tour (June meeting – every other year)
4. City Historical and Cultural Site Tour (June meeting – every other year)*
5. Park Maintenance Schedule – in working with the Parks Department, help create maintenance schedule for City parks as a preventative measure to ensure park quality, preservation of historic buildings. *Set priorities for Park Maintenance and Expansion.*
6. Park Construction and Expansion work along with Parks Department to provide feedback and input
7. Park Rehabilitation – provide feedback and input to the Parks Department

*Tour of Alviso Adobe and Community Garden in 2004

RECOMMENDATION: Approve the 2004 Parks, Recreation and Cultural Resources Commission Work Plan.

XV. UNFINISHED BUSINESS

6. REVIEW ODOR CONTROL COMPREHENSIVE ACTION PLAN UPDATE (STAFF CONTACT: DARRYL WONG, 586-3345)

BACKGROUND: This is an update of the odor control coordination activities. A copy of the Odor Action Plan is included in the Council packet. Some of the key events that have occurred during the past month include:

1. Completed execution of consultant agreement with Cal Recovery.
2. City Staff and odor consultant, Cal Recovery, visited the Newby Island landfill and compost facility to discuss and observe odor control best management practices.

3. BAAQMD continues to provide real time advisories of odor events to City staff, Local Enforcement Agency (LEA), and the possible odor generators including BFI Landfill and Compost, Zanker Landfill and Compost, San Jose/Santa Clara Water Pollution Control Plant, Cargill and Los Esteros Power Plant.
4. City Staff has requested potential odor sources to update and document Best Management Practices currently in use or planned.

The Bay Area Air Quality Management District (BAAQMD) has reported the following number of complaints logged in October: 96, November: 50, December: 16, January: 31, February: 11, March: 23, April: 8 as of April 6th.

RECOMMENDATION: Note receipt and file progress report.

* **7. APPROVE PRODUCTION AND DISTRIBUTION OF COMMUNITY NEWSLETTER AND ASSOCIATED COSTS (STAFF CONTACT: CINDY MAXWELL, 586-3282 AND THOMAS WILSON, 586-3050)**

BACKGROUND: On February 17, 2004, Vice Mayor Dixon brought to the Council for discussion a proposal to establish an in-house Milpitas City newsletter. On the 17th, staff was directed to evaluate the publication of a newsletter to be produced and printed in-house with contractual services for layout and writing.

Staff has analyzed the costs associated with the production of a Milpitas newsletter. The costs analysis for a newsletter is based on the following criteria:

- 4 issues annually
- Up to 12 pages in length per issue
- 23,000 copies per issue – 20,000 to be mailed and the remainder to be distributed at public facilities, in new resident packages, and at the Milpitas Chamber of Commerce
- Printed in-house – 4-color cover (2 pages); 2-color interior (up to 10 pages)
- Design template prepared by outside professional with in-house layout after first edition
- Writing for all issues by outside professional

The projected costs for “per issue” and “per year” are provided below:

Item	Cost/Issue (1st issue)	Cost/Issue (2 nd , 3 rd , & 4 th issue)	Cost/Year (4 issues)
Printing	\$4,500	\$4,500	\$18,000
Writing	\$1,750	\$1,750	\$7,000
Design/Layout	\$1,925	N/A	\$1,925
Mailing/Sorting	\$2,981	\$2,981	\$11,924
Total	\$11,156	\$9,321	\$38,849

Also on February 17th, Councilmember Gomez asked staff to evaluate the possibility of including existing publications as part of the newsletter, which might offset or reduce other costs. Staff believes that, based on timing, that there are a number of announcements and/or publications, which could be included in the newsletter which would, at a minimum, save mailing costs. An example would be the required Annual Water Quality Report that must be sent to all residents and businesses. Staff will continue to evaluate opportunities.

RECOMMENDATION: Approve the production of a Milpitas City newsletter for one year (4 issues) at the costs provided above with the costs to be shared half by the Redevelopment Agency and half by the City. In addition, staff recommends the approval of contract for the professional writing services with Ealasaid Haas.

XVI. NEW BUSINESS

8. CONSIDERATION OF STREET SWEEPING AS A SOLID WASTE SERVICE (STAFF CONTACT: BLAIR KING, 586-3060)

BACKGROUND: In order to create a sanitary environment and to meet various clean water requirements, Milpitas provides street sweeping services for residents and business via a contract with a private business, Enviro-Commercial Sweeping. Residential areas are swept twice per month. Commercial and industrial areas are swept four times per month. During the months of November and December, three residential areas with a high number of trees are swept weekly. In all, the contractor sweeps 9,596 curb miles, 840 intersections, and 108 parking lots annually.

In California, street sweeping has historically been considered a janitorial service, closely aligned with solid waste refuse service. As a result, it is exempt from public works rules and regulations; and no license is required for street sweeping. Additionally, California law – Public Resource Code 40059, 49300, and 40059 (a)(2) – allows solid waste services to be contracted without competitive bid and through exclusive franchises.

The contract with Enviro-Commercial Sweeping expired last June. The contract was extended to allow time for staff to research and investigate cost-saving alternatives.

Staff has prepared a recommendation for Council action that will reduce General Fund costs, fully maintain service levels, potentially improve service quality, and do so in a manner to minimize financial impacts on the municipal corporation, residents, and businesses. The proposal is to incorporate street sweeping as a service in the solid waste franchise agreement. The City's solid waste franchise provider, BFI, can provide street sweeping services at a competitive rate of \$17.87 per curb mile. BFI's cost quote of \$17.87 per curb mile is considered competitive. This conclusion is based on monitoring three different surveys of street sweeping costs conducted in 2001 and 2003. Based on a survey conducted by the City of Tulare in May 2003, the average cost of street sweeping is \$18.88. The BFI proposal is \$1.01 less than the average cost. However, BFI will forgo this charge through the term of its current franchise, which expires September 2, 2007, if the City extends the franchise for ten years, subject to additional solid waste amendments that the City wishes to impose. For the sake of discussion this is Option One. Alternatively, BFI will sweep the streets and charge residential and commercial costumers without a franchise extension. The approximate fee for residential costumers would be \$0.89 per month. There would be no charge until January 2005. This is Option Two. Either option would save the General Fund approximately \$225,000 annually.

It is recommended that Council direct staff to prepare the appropriate amendments to the BFI franchise to implement either Option One or Option Two.

Attached is a memorandum previously distributed to the City Council on this topic.

RECOMMENDATION: Direct that Street Sweeping be considered a solid waste function and implement street sweeping services via an amendment to the Solid Waste Franchise Agreement in accordance with Option One, no charge with a franchise extension, or Option Two, a charge without a franchise extension.

*** 9. APPROVE MARQUEE REQUEST: ANNELL SPENCER, REPRESENTING FRIENDS OF THE LIBRARY (STAFF CONTACT: JENNIFER TAGALOG, 586-3206)**

BACKGROUND: Annell Spencer, Friends of Library board member, has requested to use the City of Milpitas marquee to advertise the following:

Marquee Request (to be displayed 4/21 - 4/25)
Milpitas Library Book Sale
4/23, 7 pm to 9 pm
4/24, 10 am to 5 pm

4/25, 11 am to 3 pm

The City Council pursuant to Resolution No. 6310, Facility Use Rules and Regulations must approve all exceptions to the marquee policy.

RECOMMENDATION: Approve request for Friends of the Library to use city marquee (April 21-April 25) to promote book sale.

XVII. ORDINANCES

- * **10. ADOPT ORDINANCE NO. 38.763 (ZT2004-1) AMENDING TITLE XI, CHAPTER 10 (PLANNING, ZONING AND ANNEXATION) OF THE MUNICIPAL CODE (STAFF CONTACT: STACI PEREIRA, 586-3278)**

BACKGROUND: Ordinance 38.763 was introduced at the April 6, 2004, City Council meeting. This ordinance involves amendments to the Zoning Code that include regulations affecting single-family residences and public noticing procedures. At the April 6th meeting, the Council requested a minor revision to the definition of single housekeeping unit that included the removal of “sharing household activities and responsibilities such as meals, chores and expenses”. Planning staff has made this change, which is reflected in the revised ordinance included in the Council’s agenda packets.

RECOMMENDATION:

1. Waive full reading of ordinance; and
2. Adopt Ordinance No. 38.763 (Zoning Ordinance Text Amendment No. ZT2004-1).

- * **11. ADOPT TRAFFIC ORDINANCE 43.200: AMENDMENT TO THE TRAFFIC CODE: (STAFF CONTACT: MIKE MCNEELY, 586-3301)**

BACKGROUND: This ordinance is ready for final adoption amending the Traffic Code to provide for a traffic control revision adding N. Park Victoria Drive from Kirkwall Place to the North City Limits to Milpitas’ speed survey list enabling the use of radar for enforcement.

RECOMMENDATION:

1. Waive full reading of the ordinance; and
2. Adopt Ordinance 43.200 amending Chapter 100, Title V (Traffic) of the Milpitas Municipal Code.

XVIII. RESOLUTIONS

- * **12. ADOPT RESOLUTION APPROVING EXTENSION OF COMCAST FRANCHISE (STAFF CONTACT: BILL MARION, 586-2701)**

BACKGROUND: In 1983, the City adopted Chapter 22 of the Milpitas Municipal Code, providing a procedure for the granting of nonexclusive franchises for cable communications. Since this time, several cable operators have assumed the initial franchise, which is now held by Comcast. This agreement expired in April of 2003, and has been extended by Council action through April of 2004. The City has undertaken a franchise renewal process that included a formal needs assessment and review of the cable system. Based on the results of the needs assessment, Council found Comcast in violation of the terms of the existing franchise. Comcast has responded to the City on these noncompliance items and while not all items have been resolved, Comcast has committed to a plan to correct grounding issues and has facilitated an accounting review of franchise fee audit issue. Discussion is ongoing on the other items and two meetings on compliance have occurred.

In conjunction with continued franchise negotiations, Comcast has responded to the draft franchise documents. To date, two meetings have been held and a third is scheduled. In order to

ensure that the City may continue enforcement under the existing franchise while a new franchise is negotiated, an extension of the franchise is needed. The City Attorney and our consultant recommend this action to preserve the City's rights under the existing agreement until such time as a new agreement is in place. This extension would be for a period of one year unless superseded by a franchise renewal agreement and would extend the term of the original franchise from 20 to 22 years. Should the City be unable to come to agreement with Comcast within that time, the City has the option to follow the formal renewal process to include proceedings for a denial of franchise.

RECOMMENDATION: Adopt a resolution granting a one-year extension to the existing franchise agreement to allow for the completion of franchise negotiations.

- * **13. ADOPT RESOLUTION GRANTING FINAL ACCEPTANCE: CALAVERAS ROAD SLOPE REPAIR (PROJECT NO. 4029) (STAFF CONTACT: GREG ARMENDARIZ, 586-3320)**

BACKGROUND: This project, which was initially accepted on February 18, 2003, has passed the one-year warranty period. A final inspection has been made and the public improvements, which include storm drainage, roadway stabilization and slope stabilization improvements are satisfactory. Therefore, a final acceptance may be granted and the contractor's bond may be released.

RECOMMENDATION: Adopt resolution granting final acceptance and release of the bond.

XIX. BIDS AND CONTRACTS

- * **14. AUTHORIZE THE CITY MANAGER TO EXECUTE REVOCABLE PERMIT WITH SAN FRANCISCO PUBLIC UTILITIES COMMISSION (PROJECT NO. 6082) (STAFF CONTACT: DARRYL WONG, 586-3345)**

BACKGROUND: A San Francisco Public Utilities Commission (SFPUC) Revocable Permit is needed to construct on-site recycled water pipelines over the Hetch-Hetchy right-of-way at Sandalwood Park and the Escuela Parkway median in front of the high school. A Revocable Permit with SFPUC is included in the council packet.

RECOMMENDATION: Authorize the City Manager to execute the Revocable Permit with San Francisco Public Utilities Commission.

- * **15. APPROVE LEASE AGREEMENT WITH GTE MOBILENET OF CALIFORNIA (STAFF CONTACT: BILL MARION, 586-2701)**

BACKGROUND: GTE Mobilenet of California wishes to lease space at the Milpitas Sports Center for the installation of a cellular communications site. City staff has been working with GTE for several months and believes they have a design that meets the applicable Planning requirements. This lease is contingent upon GTE securing all necessary approvals and they will be required to complete the normal Planning and Permitting process. The lease will be for an initial period of five years with options for extension. The base rent will be \$19,800 annually, which will be subject to a 3% annual adjustment over the period of the lease. These terms are comparable to those found in a survey of other jurisdictions.

RECOMMENDATION: Authorize approval of lease agreement with GTE Mobilenet of California, subject to approval as to form by the City Attorney.

- * **16. APPROVE JOINT POWERS AGREEMENT BETWEEN CITY OF MILPITAS RECREATION SERVICES AND CITY OF FREMONT - TENNIS CENTER (STAFF CONTACT: ROSANA CACAO, 586-3207)**

BACKGROUND: The City of Milpitas Recreation Services has contracted with the City of Fremont Tennis Center to provide tennis lessons to the Milpitas community as a contracted instructor for the past six years. Both parties would like to extend the services through the Joint Powers Agreement, commencing on the date last signed by the parties, March 23, 2004, and shall continue until completion of all services in accordance with the requirements set forth in Exhibit "A" of this Agreement. This Agreement is included in the Council's packet for review and has been approved as to form by the City Attorney.

Milpitas Recreations Services handles all registration and collects all fees for classes and the City of Fremont Tennis Center instructors teach all lessons on City of Milpitas tennis courts. During FY 2003-04, over 500 people enrolled in tennis lessons and camps.

RECOMMENDATION: Approve agreement for City of Fremont - Tennis Center to provide tennis lessons through Milpitas Recreation Services from March 23, 2004, until termination by either party without cause upon thirty (30) days written notice to the other party.

- * 17. **AWARD CONSTRUCTION CONTRACT: STREET TREES AND MULCH FOR GREAT MALL PARKWAY (PROJECT NO. 4133) (STAFF CONTACT: DOUG DEVRIES, 586-3313)**

BACKGROUND: On March 2, 2004, the City Council approved the plans and specifications for installation of Street Trees and Mulch for Great Mall Parkway and authorized to advertise for bid proposals. Work for this project includes planting and irrigation of street trees, and replacement of mulch on the medians, from I-880 to the south City limits. The project was advertised and sealed proposals were opened on Wednesday, April 7, 2004. Two proposals were received, from \$181,867.00 and \$228,523.00. The low bidder was Watkin & Bortolussi, Inc. The engineer's estimate for the work was \$181,000.00. There are sufficient funds in the project account for this work.

RECOMMENDATION: Award contract to Watkin & Bortolussi, Inc., in the amount of \$181,867.00, subject to approval as to form by the City Attorney.

- * 18. **AUTHORIZE THE CITY MANAGER TO EXECUTE AN AGREEMENT AMENDMENT: KORVE ENGINEERING, GREAT MALL PARKWAY AND TASMAN/I880 VEHICLE CAPACITY IMPROVEMENTS, (PROJECT NO. 4178) (STAFF CONTACT: STEVE ERICKSON, 586-3317)**

BACKGROUND: On October 25, 2001, City Council awarded a consultant contract to Kolve Engineering for the design of Great Mall Parkway and Tasman/I880 Vehicle Capacity Improvements. Staff recommends that Kolve Engineering perform additional design services to incorporate the new light rail improvements into the intersection design, and to incorporate 237/880 Interchange Stage C change order work into the design of the southbound off ramp. Additionally, Caltrans requires a project study report (PSR) be completed as part of their permit approval for this project. Kolve Engineering will provide assistance in preparing the PSR for this project. An agreement amendment with Kolve Engineering is proposed for these additional services. Staff has negotiated a scope and fee not to exceed \$27,000.00, which is considered reasonable for the work. There are sufficient funds in the project budget to cover this additional expense.

RECOMMENDATION: Authorize the City Manager to execute the agreement amendment with Kolve Engineering, in the amount of \$27,000.00, subject to approval as to form by the City Attorney.

- * 19. **AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT: LOWNEY ASSOCIATES, GREAT MALL PARKWAY AND TASMAN/I880 VEHICLE CAPACITY IMPROVEMENTS (PROJECT NO. 4178) (STAFF CONTACT: STEVE ERICKSON, 586-3317)**

BACKGROUND: This project is included in the current five-year Capital Improvement Program (CIP). The completed project will provide improved traffic capacity for the Great Mall Parkway and I880 Interchange. Improvements include a free turning right lane from eastbound Tasman onto southbound I880, and the addition of a third eastbound through lane on Tasman at the northbound on ramp to I880. The project is located within Caltrans right of way, and their approval is required. A geotechnical/soils investigation will be required to complete the project design.

Staff has interviewed several professional consultants in conformance with the City's consultant selection process, and recommends that Lowney Associates provide the required geotechnical services. Staff has negotiated a scope and fee not to exceed \$27,000.00. The fee is considered reasonable for the work involved, and there are sufficient funds in the project budget to cover this cost.

RECOMMENDATION: Authorize the City Manager to enter into the agreement with Lowney Associates in the amount of \$27,000.00, subject to approval as to form by the City Attorney.

*** 20. AUTHORIZE THE CITY MANAGER TO EXECUTE AGREEMENT AMENDMENT: KORVE ENGINEERING, RIGHT TURN LANE AT ABEL/CALAVERAS PROJECT NO. (4186) (STAFF CONTACT: STEVE ERICKSON, 586-3317)**

BACKGROUND: On March 29, 2002, City Council awarded a consultant contract to Korve Engineering for the design of right turn lane at Abel/Calaveras Boulevard. Staff recommends that Korve Engineering perform additional services to provide right of way engineering, traffic analysis, pavement design and assistance to City staff in obtaining Caltrans approval. An agreement amendment with Korve Engineering is proposed for these additional services. Staff has negotiated a scope and fee not to exceed \$25,000, which is considered reasonable for the work. There are sufficient funds in the project budget to cover this additional expense.

RECOMMENDATION: Authorize the City Manager to execute the agreement amendment with Korve Engineering, in the amount of \$25,000, subject to approval as to form by the City Attorney.

*** 21. APPROVE AGREEMENT AMENDMENT: SINGLEY AREA STREET REHABILITATION - PHASE III (PROJECT NO. 4200) (STAFF CONTACT: DOUG DEVRIES, 586-3313)**

BACKGROUND: On November 4, 2003, the City entered into an agreement with DE Group for design of Singley Area Street Rehabilitation Phase III (Project No. 4200). It is now recommended to amend the agreement for the consultant to provide additional services to design Marylinn Drive Sidewalk, Project No. 4222, and include additional roadway in the Singley area due to its deteriorated condition. The consultant submitted a proposed fee of \$13,200 to perform the additional scope of services. The consultant has also agreed to increase its professional liability insurance coverage to \$2 million from the standard amount of \$1 million based on the revised estimated cost of construction. There are sufficient funds in the project budgets to perform the services.

RECOMMENDATION:

1. Approve amendment No. 1 to the agreement with DE Group.
2. Authorize the City Manager to execute the amendment, subject to approval by the City Attorney as to form.

*** 22. AMEND MASTER SERVICES AGREEMENT WITH GRANICUS, INC. TO EXTEND THE AGREEMENT THROUGH JUNE 30, 2007 AND INCREASE THE CONTRACT AMOUNT BY \$26,000 FOR ADDITIONAL VIDEO STREAMING EQUIPMENT AND**

MAINTENANCE CHARGES (PROJECT NO. 8142), (STAFF CONTACT: TERRY MEDINA, 586-2703)

BACKGROUND: In July 2003, the City of Milpitas implemented a project for the live web streaming of City Council and Planning Commission meetings on the internet. Granicus Inc. was selected as the vendor for providing off site media storage and the internet bandwidth necessary to provide the live streaming of the City Council and Planning Commission meetings. The original project was scaled to support 6 months of video streaming media storage at which time the video would be removed to archival storage. During the past nine months Information Services has been tracking the number of times that the City Council and Planning Commission meeting videos are accessed on the City's website. Those videos consistently rank amongst the top 5 pages that are viewed on the City's website. In order to continue to provide the video streaming services and access to the archived meeting videos it is necessary to purchase additional storage hardware, extend the current agreement and increase the amount of the current agreement by \$26,000.

The term of the Master Service Agreement will expire in May 2004 and requires renewal to ensure continuation of the live web streaming of City Council meetings, Planning Commission meetings and special City events. It is also necessary to acquire additional storage hardware that will be maintained by the City for accessing video archives that are older than six months. Granicus Inc. has also agreed to extend the current maintenance agreement for an additional three years yet only charge the City for the cost of two years of maintenance. The total costs for the additional hardware and three years of maintenance support will not exceed \$26,000. There are sufficient funds available in Capital Improvement Program 8142 (City Hall Technology) to support this request.

Approval of the 1st Amendment to the Master Service Agreement will provide continued video streaming capabilities and media storage for the next three years. Additionally, the approval of the 1st Amendment to the Master Service Agreement will provide one year of free maintenance and maintenance coverage through June 30, 2007.

RECOMMENDATION: Authorize the City Manager to approve the 1st Amendment to the Master Service between Granicus Inc. and the City of Milpitas extending the term through June 2007 and increasing the agreement by \$26,000.

XX. CLAIMS AND DEMANDS

*** 23. APPROVE PAYMENT REQUESTS: MISCELLANEOUS VENDORS / CONTRACTORS (STAFF CONTACT: LOU ZENZEN, 586-3161)**

BACKGROUND: In accordance with direction given by City Council at its August 15, 1995, meeting, Purchasing has prepared the following purchase request over \$5,000.00 for approval:

\$5,298.84 to Edward S Walsh, Co. to purchase a large 8-inch record all combination water meter for the Utility Maintenance Function. (Funds are available from the Public Works Department operating budget for this purchase.)

RECOMMENDATION: Approve the purchase request.

XXI. ADJOURNMENT